APPEAL NO. 033029
FILED DECEMBER 18, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on October 23, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable occupational disease injury; that the date of injury was _____; that the claimant had disability resulting from the compensable injury beginning on June 3, 2003, and continuing through the date of the hearing; and that the appellant (carrier) is not relieved of liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001. The carrier appealed the adverse determinations on legal and evidentiary sufficiency grounds. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury, that he had disability as a result of the compensable injury, and that he gave timely notice of injury to his employer. The claimant claimed that he sustained an occupational disease injury as a result of performing his work activities for the employer. Section 401.011(34) provides that an occupational disease means a disease arising out of and in the course and scope of employment that causes damage or harm to the physical structure of the body. Section 409.001(a) provides that, if the injury is an occupational disease, an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment.

The claimant testified that he had been having problems with his hands being dry and irritated for about five to six months before he went to the doctor. By late May 2003, the problems worsened and he sought medical care. The claimant testified that it was on _____, that he knew that his hand problems were related to his employment. His doctor advised the claimant that he suspected that solvents that the claimant was exposed to at work were the cause of the hand problems, and took him off work. The claimant informed his supervisor of the work related injury on June 3, 2003. The claimant subsequently underwent an allergy patch test, and tested positive for allergies to several anticorrosives found in chemicals that he regularly worked with, as well as rubber products, such as those found in rubber gloves that the claimant wore at work. The hearing officer found the allergy patch test, corroborated by the claimant's credible and persuasive testimony, sufficient to establish that the claimant sustained a compensable occupational disease injury. The hearing officer determined that the date that the claimant knew or should have known that his injury might be work-related was _____, and that he reported his injury to his supervisor on June 3, 2003.

The hearing officer heard the evidence that was presented on the disputed issues of whether the claimant sustained a compensable injury in the form of an occupational disease, whether he had disability, and whether he timely notified his employer of the injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Although another fact finder may have drawn different inferences from the evidence, which would have supported a different result, that fact does not provide a basis for us to reverse the hearing officer's decision on appeal. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.

_____
Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge